

IN RE: PETITION FOR ZONING VARIANCE
NS Homberg Avenue 555' E
c/1 Tilsen Avenue
921 Homberg Avenue
15th Election District
5th Councilmanic District
Wesley Hart, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.B (211.3) to allow a side yard setback of 7 feet and a sum of side yard setbacks of 16 feet in lieu of the required 12 feet and 20 feet, respectively, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Wesley Hart and Nikki Hart, appeared and testified. Also appearing, on behalf of the Petitioners, was Mr. Sipe of Patio Enclosures, Inc. There were no Protestants.

The Petitioners wish to enclose an existing screen porch located on the side of the Petitioners' existing dwelling located at 921 Homberg Avenue, Essex, Maryland 21221. The property is zoned D.R.5.5 and is improved with an existing dwelling unit. The existing porch is depicted on Petitioners' Exhibit 2 and has existed for a minimum of 10 years.

The Petitioners also testified that to relocate this porch to the rear of the property would cause the home to have to be completely remodeled because there is no exit or entrance from the rear of the property and all of the wall space along the rear of the property is either through the kitchen cabinets or through bedrooms.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances

requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 3rd day of March, 1989 that the Petition for Zoning Variance from Section 1802.3.B (211.3) to allow a side yard setback of 7 feet and a sum of side yard setbacks of 16 feet in lieu of the required 12 feet and 20 feet, respectively, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

(1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

(2) The Petitioner shall place rain spouts and rain gutters upon the enclosed porch and shall channel all rain water onto the rear yard in order to facilitate infiltration of storm water.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:mmm
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

March 1, 1989



Dennis F. Rasmussen
County Executive

Mr. and Mrs. Wesley Hart
921 Homberg Avenue
Essex, Maryland 21221

RE: Petition for Zoning Variance
Case No. 89-333 A

Dear Mr. and Mrs. Hart:

Enclosed please find the decision rendered on the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
att.
cc: Peoples Counsel

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-333-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B, (211.3) to allow a side yard setback of 7 ft. and a sum of side yard setbacks of 16 ft. in lieu of the required 12 ft. and 20 ft., respectively.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
1. This area lends itself to the utilization of existing facilities and land without interruption or major alterations to the present floor plan patterns.
 2. Insulate and reduce heating bills.
 3. Reduce outside noise.
 4. A place to sit out and not be concerned with the weather, bugs; mosquitoes, flies, etc.
 5. Improve appearance of house.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

(Type or Print Name)

Signature

Address

City and State

Signature

Address

City and State

Name

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

City and State

Attorney's Telephone No.:

Name

Address

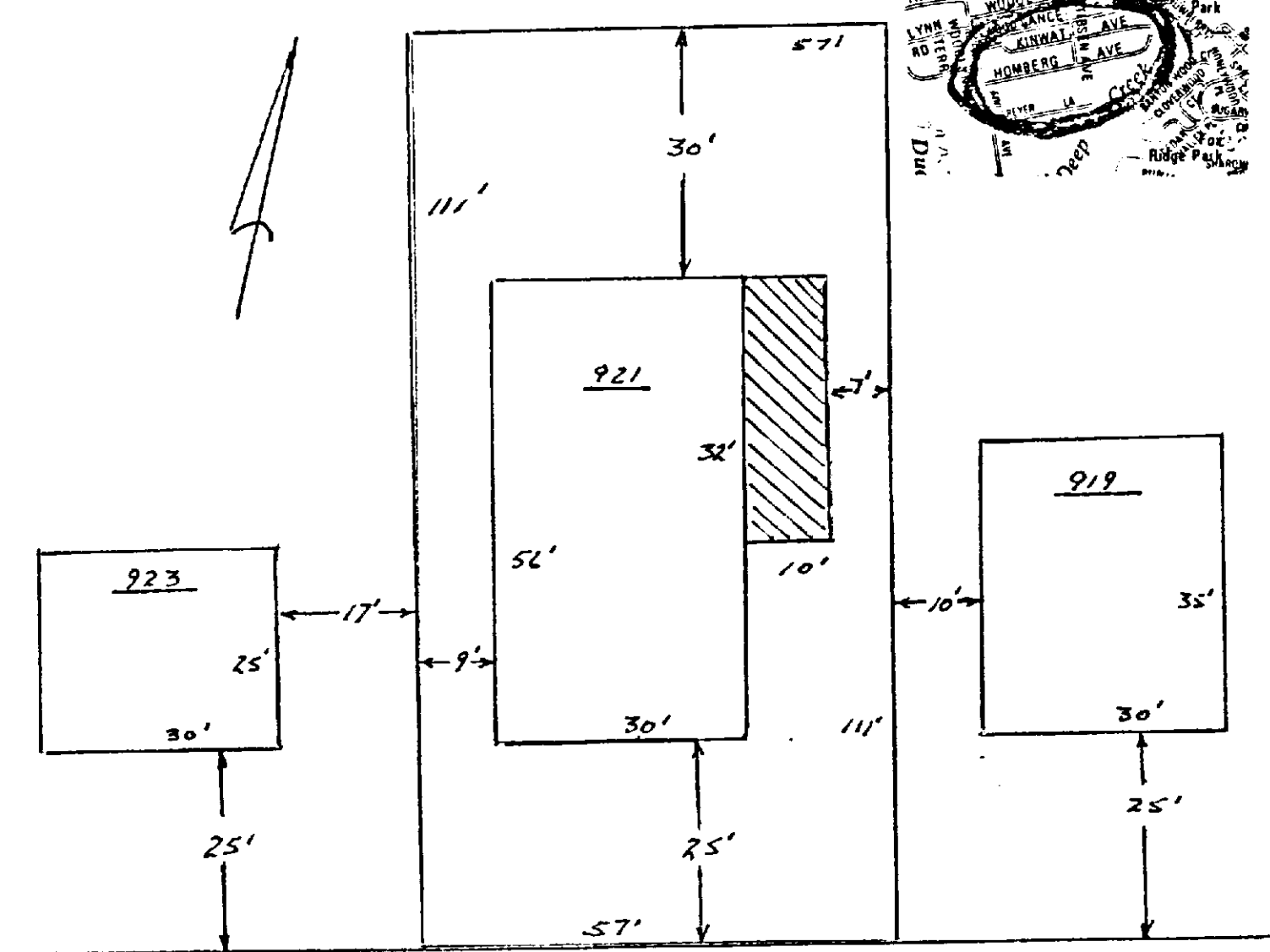
City and State

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 2nd day of Feb, 1989, at 2 o'clock P.M.

(over)

#238

PETITIONER'S EXHIBIT 1



Wesley & Nikki Hart's Adjoining Neighbors

Mr. & Mrs. Doug George

919 Homberg Avenue

Baltimore, Md. 21221

Mr. & Mrs. Richard Switalaki

923 Homberg Avenue

Baltimore, Md. 21221

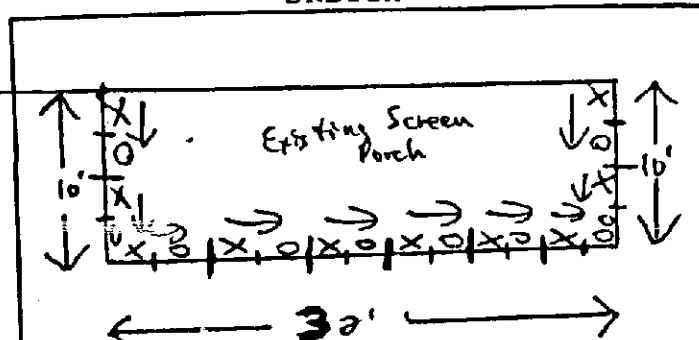
Wesley C. & Nikki Hart
921 Homberg Avenue
Essex, Md. 21221
Lot No. - 0011
Subdivision - Marlyshire
Scale - 1" = 20'
Zone - DR 5.5
Election District - 15
Block - 24
Folio - 117
Front - 57.50
Rear - 57.50
S.1 - 111.34
S.2 - 111.34
Acreage - 0.1452
Public Utilities

PHOTO

Too Dark

OVERHANG: 96"
HEIGHT PAD TO HOUSE

SKETCH



PETITIONER'S EXHIBIT 3

NOTES: Existing wood screen porch, tear out screens & cap post. New posts as needed.

MEASURE MAN			DATE MEASURED:						
ELECT:	NO	YES	WINGS:	NO	YES	FLOOR SURFACE:			
TEAR OUT:	NO	YES	ELEVATED:	NO	YES				
HAUL AWAY:	NO	YES	MOUNTING SURFACE:			TYPE OF ROOF:			
BUG PROOF:	NO	YES							
BUG PLUGS:	NO	YES	MIN.	1	2	3	PRE-CUT	NO	YES
			INSTALLERS	WALK OR			STEPS MEASUREMENT		

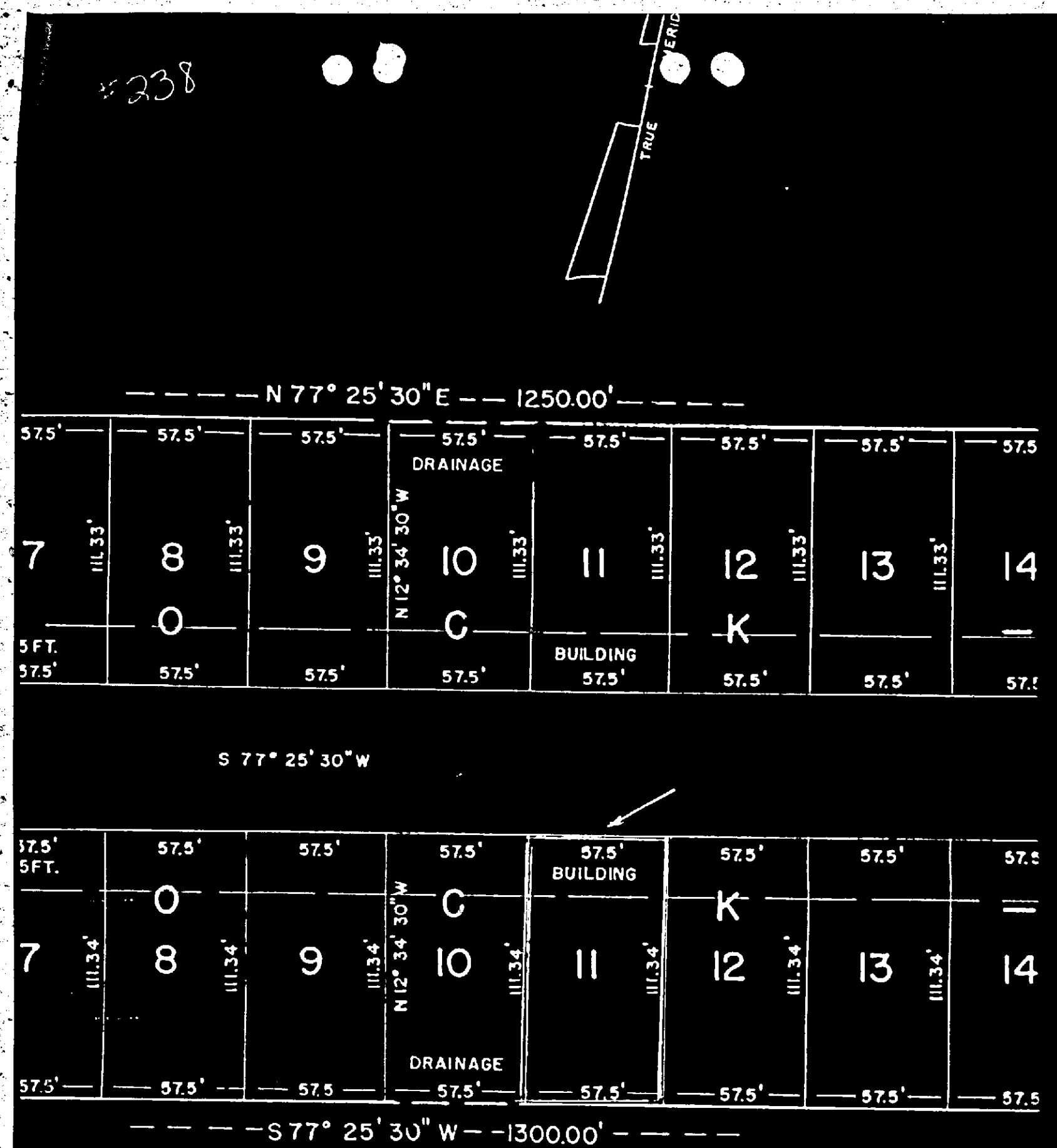
PETITIONER(S) EXHIBIT (2)



LEGAL DESCRIPTION OF PROPERTY

Beginning on the North side of Homberg Avenue, 60' wide, at the distance of 555', East of the centerline of Tilsen Avenue. Being Lot 0011, in the subdivision of Marlyshire. Book No. 24, folio 117.

Also known as 921 Homberg Avenue, in the 15th election district.



PLAT "A"
OF
MARLYSHIRE
15th ELECT. DIST. BALTO. CO. MD.
FOR
REQUARD BUILDING COMPANY
7610 GERMAN HILL ROAD
BALTIMORE 22, MARYLAND

RECEIVED
FEB 19 1989
BALTO. CO. MD.
C. L. B. 19
One of the
Baltimore County
Commissions

CERTIFICATE OF PUBLICATION
Office of
THE AVENUE NEWS

142 Eastern Blvd.
Baltimore, Md. 21221

February 3, 1989

THIS IS TO CERTIFY, that the annexed advertisement of
Petition for Zoning Variance, petitioner Wesley Hart, ET UX, Case No. 89-333-A, NS Homberg Ave., 555° E c/l Tilsen Avenue (921 Homberg Ave) 15th Election District-5th Councilmanic.
Hearing Scheduled: Tuesday, February 21, 1989 at 2:00 p.m. PO# 09593 Req# N25223 801 lines @ .55¢ \$44.28
was inserted in **The Avenue News** a weekly newspaper published in Baltimore County, Maryland once a week for successive week(s) before the 3 day of February 1989, that is to say, the same was inserted in the issues of Feb. 2, 1989.

The Avenue Inc.
per publisher
By *Dennis F. Rasmussen*

CERTIFICATE OF PUBLICATION
TOWSON, MD., February 2, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in **THE JEFFERSONIAN**, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on February 2, 1989.
THE JEFFERSONIAN,
S. Zake Olson
Publisher
PO 09605
reg. M 25224
ca 89-333-A
price \$39.40

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the petition for zoning variance, Case No. 89-333-A, NS Homberg Avenue, 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic, at the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Tuesday, February 21, 1989 at 2:00 p.m.
Petitioner for Zoning Variance: Wesley Hart, at 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic.
Petitioner(s): Wesley Hart, at 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic.
Remarks: The Zoning Commission will hold a public hearing on the petition for zoning variance, Case No. 89-333-A, NS Homberg Avenue, 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic, at the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Tuesday, February 21, 1989 at 2:00 p.m.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing. It is the policy of this office to hold the hearing on the petition for zoning variance, Case No. 89-333-A, NS Homberg Avenue, 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic, at the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Tuesday, February 21, 1989 at 2:00 p.m.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
02/026 Feb. 2

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
89-333-A
District: 15th
Posted for: Variance
Petitioner: Wesley Hart, at 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic.
Location of property: NS Homberg Ave, 555° E c/l Tilsen Ave, 921 Homberg Ave, 15th Election District - 5th Councilmanic.
Location of Sign Posting: Homberg Ave, 555° E c/l Tilsen Ave, 921 Homberg Ave, 15th Election District - 5th Councilmanic.
Remarks: The Zoning Commission will hold a public hearing on the petition for zoning variance, Case No. 89-333-A, NS Homberg Avenue, 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic, at the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on Tuesday, February 21, 1989 at 2:00 p.m.
Posted by: *S. Zake Olson*
Number of Signs: 2
Date of return: 2/19/89

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner
Date: 2/7/89
Mr. & Mrs. Wesley Hart
921 Homberg Avenue
Essex, Maryland 21221
Re: Petition for Zoning Variance
CASE NUMBER: 89-333-A
NS Homberg Avenue, 555° E c/l Tilsen Avenue
921 Homberg Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Wesley Hart, at 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic.
HEARING SCHEDULED: TUESDAY, FEBRUARY 21, 1989 at 2:00 p.m.
Dear Mr. & Mrs. Hart:
Please be advised that \$39.40 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.
THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.
Please send payment to:
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE: 2/7/89
ACCOUNT: 111-15-1000
AMOUNT: \$39.40
RECEIVED FROM: *Wesley Hart*
FOR: *111-15-1000*
VALIDATION OR SIGNATURE OF CASHIER: *J. Robert Haines*
DISTRIBUTION: WHITE - COUNTY, PINK - AGENCY, YELLOW - CUSTOMER
File
No. 111-15-1000
nd post set(s), there or each set not
Maryland and bring Office, County Office 15) minutes before

ASSIGNMENT - CODE - CITY OR COUNTY - IN
LIBER 4305 PAGE 523
This Deed, Made this 26th day of May, 1984
In the year one thousand nine hundred and Sixty-four by and between
William Loye Mills and Mollie O. Mills, his wife
of Baltimore County in the State of Maryland, of the first part, and
Wesley C. Hart and Nikki Hart, his wife
of the second part.
Witnesseth, That in consideration of the sum of Five dollars (\$5.00) and other good and valuable considerations the receipt whereof is hereby acknowledged,
the said parties of the first part
do grant and convey unto the said parties of the second part, as tenants by the entireties their assigns the survivor of them, his or her
personal representatives and assigns all that lot
in Baltimore County, aforesaid, and described as follows, that is to say:
Beginning for the same and being known and designated as Lot No. 11, Block B as shown on the plat entitled Flat A, Marlyshire which plat is recorded among the Land Records of Baltimore County in Flat Book G.L.B. No. 24 folio 117.
The improvements thereon being known as 921 Homberg Avenue.
Being the same lot of ground which by deed dated 7/21/59 and recorded among the Land Records of Baltimore County in Liber W.L.R. 3566 folio 279 was granted and conveyed by Wheeler Holding Inc. to the grantors herein subject to the payment of an annual ground rent of \$90.00 payable on the 7th days of June and December in each and every year.

LIBER 4305 PAGE 524
Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in any wise appertaining.
To Have and To Hold the said described lot of ground
and premises, unto and to the use of the said parties of the second part, as tenants by the entireties their assigns the survivor of them, his or her
personal representatives
and assigns, for all the residue of the term of years yet to come and unexpired therein, with the benefit of renewal forever; subject to the payment of the annual rent of \$90.00 Dollars,
payable half-yearly on the 7th days of June and December.
And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.
Witness the hands and seals of said grantor
Test:
William Loye Mills (Seal)
William Loye Mills
Mollie O. Mills (Seal)
Mollie O. Mills
State of Maryland, City of Baltimore, to wit:
I HEREBY CERTIFY, That on this 26th day of May, 1984
in the year one thousand nine hundred and sixty-four before me, the subscriber,
a Notary Public of the State of Maryland, in and for Baltimore City
aforesaid, personally appeared William Loye Mills and Mollie O. Mills, his wife
the grantors named in the above Deed, and they acknowledged the foregoing Deed to be their act.
AS WITNESS my hand and Notarial Seal.
Carl J. Gehrmann
Carl J. Gehrmann
Notary Public
Rec'd for record: JUN 1 1984 at 11
Per Robert R. Gill, Clerk
Mail to: *Robert R. Gill*
Receipt No. 197367

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333
J. Robert Haines
Zoning Commissioner
January 19, 1989
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Petition for Zoning Variance
CASE NUMBER: 89-333-A
NS Homberg Avenue, 555° E c/l Tilsen Avenue
921 Homberg Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Wesley Hart, at 555° E c/l Tilsen Avenue, 921 Homberg Avenue, 15th Election District - 5th Councilmanic.
HEARING SCHEDULED: TUESDAY, FEBRUARY 21, 1989 at 2:00 p.m.
Variance to allow a side yard setback of 7 ft. and a sum of side yard setbacks of 16 ft. in lieu of the required 12 ft. & 20 ft. respectively.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
cc: Mr. & Mrs. Wesley Hart
Enclosures, Inc.
File

89-335-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
21st day of December, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner Wesley Hart, et ux Received by: James E. Dyer
Petitioner's Chairman, Zoning Plans
Attorney Advisory Committee

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner Date: February 1, 1989
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Zoning Petition Nos. 89-222-SPH (Lawrence); 89-302 (Lagna); 89-303-A (Gorn);
89-325-A (Penn Ltd.); 89-335-A (SK Properties); 89-326-A (Angelos);
89-332-A (Haynes); 89-337-A (Hart)

The Office of Planning and Zoning has no comment on the above
petitions.

PK/sf

RECEIVED
JAN 3 1989
ZONING OFFICE

cc: Mr. & Mrs. Hart
2/7/89
H

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 6, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

Mr. Wesley Hart
921 Homberg Avenue
Essex, MD 21221

RE: Item No. 238, Case No. 89-333-A
Petitioner: Wesley Hart, et ux
Petition for Zoning Variance

Dear Mr. Hart:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Patio Enclosures, Inc.
224 8th Avenue, N.W.
Glen Burnie, MD 21061

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

January 17, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 199, 205, 209, 237, 238, 239, 240, 241, 243, 244, 245, 246, and 247.

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lw

Dennis F. Rasmussen
Dennis F. Rasmussen
County Executive

Baltimore County
Fire Department
Towson, Maryland 21204-2500
494-4500

Paul H. Runkle
Chief

December 29, 1988

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Wesley Hart, et ux

Location: NS Horberg Avenue, 555' E. of c/l of Tibsen Avenue
921 Horberg Avenue
Item No.: 238

Zoning Agenda: Meeting of 12/20/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Paul H. Runkle*
Planning Group
Special Inspection Division

NOTED & APPROVED: *Paul H. Runkle*
Fire Prevention Bureau

/s/